



AZ POST

INTEGRITY BULLETIN

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The Arizona Peace Officer Standards and Training Board (AZPOST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZPOST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **October and November, 2002** public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, the Board publishes this Bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

The Board accepted voluntary relinquishment of peace officer certification from five peace officers. The relinquishments are permanent and have the same force and effect as a revocation, but there are no findings of misconduct. The allegations that preceded the relinquishments, none of them proven, are as follows:

- An agency head lied during an internal investigation;
- An officer failed a random drug screen, testing positive for marijuana;
- An officer assaulted his wife, sold department property and lied about it;
- An officer committed sexual misconduct on duty and lied about it; and,
- An officer committing felony criminal damage and perhaps felony DUI, by crashing a vehicle into a convenience store while under the influence of alcohol.

CASE NO. 1

LYING ON APPLICATION

The background investigation for Recruit A discovered a felony conviction, and a separate conviction for assault so he did not qualify for certification. Because of these conviction and because he lied about these crimes on his POST Personal History Statement, the Board denied him certification.

CASE NO. 2

EXCESSIVE FORCE

Officer B had been involved in the arrest of a very unruly man. Following a long struggle, the officers had the arrestee almost fully immobilized in a restraint chair. The arrestee's left ankle was secured, the two upper body restraints were secured but not cinched across his chest in left and right seatbelt fashion, and an officer stood behind the arrestee and held his head. Officer B was attempting to remove the leg irons from the still struggling arrestee's right ankle and secure it with the chair strap. Officer B struck the "nearly completely restrained" prisoner in the stomach area. Officer B testified that it was done in order to distract him so he could complete the task of restraining him. The matter went to hearing before an independent administrative law judge of the Office of Administrative

Hearings. The ALJ found that Officer B struck the prisoner out of frustration or adrenaline and found that it was improper. The Board suspended Officer B's peace officer certification for one year from the date of his termination from the agency.

CASE NO. 3

MALFEASANCE, MISFEASANCE OR NONFEASANCE

Deputy C has worked for three different agencies during his career. When he moved from agency two to agency three he disclosed to the polygraph examiner that he had taken a radio scanner from the scene of a traffic/drug stop some seven years earlier, while he was still at agency one. In 1995, Deputy C was a K-9 officer for agency one. He responded to the scene of a traffic stop where a subject had just been arrested for drug possession. There was property from the vehicle lying on the ground to the rear and side of the vehicle, which was placed back in the vehicle after the search. Deputy C discovered a scanner lying in the grass about six feet from the passenger side door of the suspect vehicle. He believed the scanner probably belonged to the suspect, one of the passengers or one of the officers. He took the scanner and over the next few days asked the other officers if they knew of anyone who was missing a scanner. He did not attempt to ask the suspect. He placed the scanner in his department vehicle and used it for department business for about two years. The department policies concerning found property or evidence were not followed. Deputy C did not request a hearing, rather he admitted everything the Board learned about the incident. The Board determined that the incident did not constitute a theft, but did constitute malfeasance in office and conduct that would tend to diminish public trust in the profession, because he failed to follow procedures for found property.. The Board considered the following things in mitigation; the incident was self-reported; he had been scrupulously honest in describing the incident; it had taken place seven years ago, and he did not use the property for personal gain. His Sheriff and the agency, with full knowledge about the incident, supported Deputy C wholeheartedly. The Board suspended Deputy C's peace officer certification for a period of three months from the date of the Board action.

CASE NO. 4

MALFEASANCE, MISFEASANCE OR NONFEASANCE

Sergeant D stayed at home on Thanksgiving 2001, rather than serving in his area. Testimony indicated that a previous Sheriff had an unwritten policy allowing a sergeant to check on from his home on Thanksgiving. Sergeant D checked on, was paid for working, and never left his home. The sergeant, through his attorney, presented a consent agreement for the Board's consideration calling for a five month suspension, coinciding with the time the sergeant had been on suspension or otherwise not working as a peace officer while he appealed his termination and regained his job. The Board adopted the consent agreement finding he committed misfeasance and conduct that may diminish public trust in the law enforcement profession.

CASE NO. 5

MALFEASANCE

Officer E and a local school principal constructed a three-step program to deal with a particular truant student. Step 1 was a pep talk about the value of education. Step 2 was a "reality check" or a more stern talk emphasizing the limited future available to undereducated citizens. Step 3 was called "appreciation day" and involved bathing the boy outside and walking him the 1.8 miles to school so that he would appreciate hot indoor showers and the school bus. The first two steps were ineffective and when "appreciation day" arrived, the 6'4", 240 pound Officer E removed the 9-year-old boy from his bed, carried him to a nearby irrigation canal and dropped him in the water. Officer E testified that he had permission from the boy's mother to bathe him outside. The mother testified that she did not give permission. The administrative law judge found that Officer E did not have permission. The Board adopted the 23-page findings of fact and conclusions of law from the Office of Administrative Hearings, and suspended Officer E for 120 days, the suspension to coincide with the time he was out

of work or suspended pending his employment appeal and return to work for the department.

CASE NO. 6

THEFT

Specialty Officer F used a controlled vehicle inspection form that had been reported missing in 1999, altered its control number and kept the \$50.00 inspection fee for himself. The Board revoked his certification for the commission of an offense involving dishonesty, malfeasance and damaging public trust.

CASE NO. 7

LYING ON APPLICATION

Applicant G failed to disclose on his POST Personal History Form that he had sold marijuana about 50 times. The board denied him certification for failing to meet minimum standards and for willfully falsifying information to obtain certification.

CASE NO. 8

LYING TO SUPERVISOR

Officer H hit a curb while driving her patrol car. She only noticed the scuff marks to the tire and wheel, but there was additional damage to the undercarriage of the vehicle. She failed to report the damage as required by policy. When her supervisor asked her about it, she denied any knowledge of how the damage occurred. She made this same false denial several times, but told the truth after the supervisor provided her with damage photos, daily activity reports, vehicle damage logs and interviews with the other operators of the vehicle. The matter did not proceed to the internal investigation stage and she was never provided with a Notice of Investigation or the Garrity warnings. The Board suspended her certification for a period of one year.

OTHER ACTIONS

During the months of October and November 2002, the POST Board closed numerous cases without initiating a disciplinary action against the officer's certification because Board did not believe the rule violations were severe enough to require Board action. All of these officers have been terminated by, or resigned from, their respective departments and will be required to disclose the circumstances when they apply at any other department in the state for peace officer employment. There were 13 cases closed by the Board without issuing a complaint. Some of them involved the following factual situations.

- An officer was off duty and in a bar with officers from other agencies, when he made numerous crude, sexual statements and hateful racial remarks to those officers, offending them.
- An officer committed disorderly conduct by raising a hand against his teenage stepdaughter who had poured out his beer and called him obscene names; however, there was no physical violence.
- A deputy was untruthful to his supervisor when asked why he took a long lunch. The sheriff's department terminated the deputy for this and a history of late reports. Another agency, fully aware of the misconduct, hired him and wished to retain him as an officer.
- Over an extended period, a sergeant made numerous derogatory remarks concerning the operation of his agency, his chain of command, and his chief of police.
- An officer missed a scheduled court appearance, possibly due to poor judgment in travel choices the night before that court appearance.
- An applicant had a pre-employment conviction for class 2 misdemeanor theft arising out of a civil dispute that occurred nine years prior to appointment as a peace officer.

- A cadet failed to greet an academy supervisor and explained that he had not seen the supervisor. He later indicated he had seen the supervisor.
- An officer experienced a malfunction with the light bar on his vehicle. He failed to immediately report the malfunction to his supervisor as required by policy.
- An officer committed DUI off-duty in his personal vehicle, and then failed to appropriately complete the court ordered sanctions against him.

While the Board took no direct action in these cases, they do not condone, excuse, nor approve of any of the actions.